



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580

**Prepared Remarks of Chairman Joseph J. Simons¹
Hearing on “Oversight of the Federal Trade Commission”
Senate Committee on Commerce, Science, and Transportation
August 5, 2020**

Chairman Wicker, Ranking Member Cantwell, and Members of the Committee, I am Joe Simons, and I am the Chairman of the Federal Trade Commission (“FTC” or “Commission”). It is an honor to be with you today, especially alongside my fellow Commissioners.

Despite the challenges presented by the pandemic, the FTC has remained open, active, and aggressive. We have used every tool in our arsenal on COVID-related initiatives,² while simultaneously handling our everyday efforts to protect consumers’ privacy and data security, stop fraud, ensure that advertising claims are truthful and not misleading, and combat illegal robocalls. And—what is truly extraordinary—Commission staff has accomplished this while quickly transitioning from nearly 100% office-based work to nearly 100% telework.

I want to take a moment to focus on one of my top priorities: privacy and data security. Our enforcement in these areas—including cases against Facebook,³ Google and YouTube,⁴

¹ These remarks reflect my own views. They do not necessarily reflect the views of the Commission or any other individual Commissioner.

² See generally www.ftc.gov/coronavirus.

³ FTC Press Release, *FTC Imposes \$5 Billion Penalty and Sweeping New Privacy Restrictions on Facebook* (July 24, 2019), <https://www.ftc.gov/news-events/press-releases/2019/07/ftc-imposes-5-billion-penalty-sweeping-new-privacy-restrictions>. In April 2020, a court approved the record-breaking \$5 billion penalty the FTC negotiated with Facebook. FTC Press Release, *FTC Gives Final Approval to Modify FTC’s 2012 Privacy Order with Facebook with Provisions from 2019 Settlement* (Apr. 28, 2020), <https://www.ftc.gov/news-events/press-releases/2020/04/ftc-gives-final-approval-modify-ftcs-2012-privacy-order-facebook>.

and Equifax⁵—has been highly successful within the limits of our authority.⁶ But, as I have said before, Section 5⁷ is a 100-year-old statute that is an imperfect tool for this purpose. I believe we need more authority, which is why I urge you to continue your hard work to enact privacy and data security legislation that would be enforced by the FTC. As policymakers, it is appropriate for you to make the difficult value-based decisions underlying new privacy protections. From an enforcement perspective, I ask that the legislation give us: (1) the ability to seek civil penalties, (2) jurisdiction over non-profits and common carriers, and (3) targeted Administrative Procedure Act (“APA”) rulemaking authority to ensure the law keeps pace with changes in technology and the market. This is similar to the approach Congress took under the Children’s Online Privacy Protection Act (“COPPA”).⁸ We will continue to vigorously enforce existing privacy statutes,⁹ and we will use our extensive expertise and experience to enforce aggressively any new privacy or data security laws that you pass.

We also need your help to clarify our authority under Section 13(b) of the FTC Act,¹⁰ which is our principal means of getting money back for consumers. Using this authority as it has been interpreted for decades, the FTC has returned over \$10 billion to consumers in just the

⁴ FTC Press Release, *Google and YouTube Will Pay Record \$170 Million for Alleged Violations of Children’s Privacy Law* (Sept. 4, 2019), <https://www.ftc.gov/news-events/press-releases/2019/09/google-youtube-will-pay-record-170-million-alleged-violations>.

⁵ FTC Press Release, *Equifax to Pay \$575 Million as Part of Settlement with FTC, CFPB, and States Related to 2017 Data Breach* (July 22, 2019), <https://www.ftc.gov/news-events/press-releases/2019/07/equifax-pay-575-million-part-settlement-ftc-cfpb-states-related>.

⁶ See, e.g., FTC Press Release, *FTC Releases 2019 Privacy and Data Security Update* (Feb. 25, 2020), <https://www.ftc.gov/news-events/press-releases/2020/02/ftc-releases-2019-privacy-data-security-update>.

⁷ 15 U.S.C. § 45.

⁸ 15 U.S.C. §§ 6501-6506.

⁹ The Commission also enforces sector-specific statutes containing privacy and data security provisions, such as the Gramm-Leach-Bliley Act (“GLB Act”), Pub. L. No. 106-102, 113 Stat. 1338 (1999) (codified as amended in scattered sections of 12 and 15 U.S.C.), and the Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. §§ 6501-6506.

¹⁰ 15 U.S.C. § 53(b).

last four years.¹¹ Recent court decisions, however, threaten this essential authority, and this issue is now before the Supreme Court.¹² I strongly urge you to clarify the law.

I want to thank the Committee for advancing legislation to reauthorize the U.S. SAFE WEB Act¹³—an indispensable tool in combatting cross-border fraud. However, without further Congressional action, SAFE WEB will sunset on September 30. I would like your continued support in pushing this effort across the goal line, and keeping SAFE WEB in our enforcement arsenal.

Though I am asking for more help, please know how grateful I am for what you already have done on these issues. I am also very thankful for the financial support Congress has given the FTC this year. The \$20 million increase averted full-time employee reductions, and instead allows us to hire more people for some of our most critical work.

I also want to mention the recent European Union (“EU”) ruling on the EU-U.S. Privacy Shield and note that we are studying its effects.¹⁴ We stand ready to support the administration’s efforts in this area, but at the same time we will continue to hold companies accountable for their privacy commitments, including promises made under the Privacy Shield.

I will end by briefly highlighting our antitrust enforcement. We are on pace for the highest number of merger enforcement actions in 20 years (since FY 2000). We have brought

¹¹ See https://public.tableau.com/profile/federal.trade.commission#!/vizhome/Refunds_15797958402020/RefundsbyCase.

¹² See *FTC v. Credit Bureau Center*, 937 F.3d 764 (7th Cir. 2020), petition for cert. granted, 2020 WL 3865251 (July 9, 2020) (No. 19-825); see also FTC Press Release, *Statement of FTC General Counsel Alden F. Abbott regarding Supreme Court Orders Granting Review of Two FTC Matters* (July 9, 2020), <https://www.ftc.gov/news-events/press-releases/2020/07/statement-ftc-general-counsel-abbott-regarding-supreme-court>.

¹³ 15 U.S.C. §§ 41 *et seq.*

¹⁴ See FTC Business Center, *Update on the Privacy Shield Framework* (July 21, 2020), <https://www.ftc.gov/tips-advice/business-center/privacy-and-security/privacy-shield>.

four monopolization cases in the last two years.¹⁵ Last year we formed the Technology Enforcement Division (“TED”),¹⁶ which is currently pursuing a number of very significant investigations involving big tech platforms, and we have used our study authority to issue special orders to Alphabet, Amazon, Apple, Facebook, and Microsoft requiring them to provide information about prior acquisitions not reported under the HSR Act.¹⁷

We are committed to using every resource to effectively protect consumers and promote competition. We look forward to continuing to work with you, and I would be happy to answer your questions.

¹⁵ FTC Press Release, *FTC and NY Attorney General Charge Vyera Pharmaceuticals, Martin Shkreli, and Other Defendants with Anticompetitive Scheme to Protect a List-Price Increase of More Than 4,000 Percent for Life-Saving Drug Daraprim* (Jan. 27, 2020), <https://www.ftc.gov/news-events/press-releases/2020/01/ftc-ny-attorney-general-charge-vyera-pharmaceuticals-martin>; FTC Press Release, *FTC Challenges Illumina’s Proposed Acquisition of PacBio* (Dec. 17, 2019), <https://www.ftc.gov/news-events/press-releases/2019/12/ftc-challenges-illumina-proposed-acquisition-pacbio>; FTC Press Release, *Reckitt Benckiser Group plc to Pay \$50 Million to Consumers, Settling FTC Charges that the Company Illegally Maintained a Monopoly over the Opioid Addiction Treatment Suboxone* (July 11, 2019), <https://www.ftc.gov/news-events/press-releases/2019/07/reckitt-benckiser-group-plc-pay-50-million-consumers-settling-ftc>; FTC Press Release, *FTC Charges Surescripts with Illegal Monopolization of E-Prescription Markets* (Apr. 24, 2019), <https://www.ftc.gov/news-events/press-releases/2019/04/ftc-charges-surescripts-illegal-monopolization-e-prescription>.

¹⁶ FTC Competition Matters Blog, *What’s in a Name? Ask the Technology Enforcement Division* (Oct. 16, 2019), <https://www.ftc.gov/news-events/blogs/competition-matters/2019/10/whats-name-ask-technology-enforcement-division>.

¹⁷ FTC Press Release, *FTC to Examine Past Acquisitions by Large Technology Companies* (Feb. 11, 2020), <https://www.ftc.gov/news-events/press-releases/2020/02/ftc-examine-past-acquisitions-large-technology-companies>.